

IN SENATE OF THE UNITED STATES.

APRIL 19, 1848.

Submitted, and ordered to be printed.

Mr. UNDERWOOD made the following

REPORT

*The Committee of Claims, to whom was referred the petition of Richard G. Dove, beg leave to report:*

That Richard G. Dove, formerly assistant messenger in the office of Third Auditor of the Treasury, states that, while in service he did not receive so much as Congress annually appropriated to pay the assistant messenger. He claims the full amount of the appropriation, to wit: at the rate of \$400 per annum during his service, subject to a credit for the amount paid him. This claim is based upon the idea that the petitioner was an officer of the government with an annual salary fixed by law. The committee do not admit the propriety of regarding messengers as salaried officers. The appropriation for clerks and messengers in the Third Auditor's office in the year 1830, being the first succeeding Mr. Dove's employment, was in these words: "For compensation to the clerks and messengers in the office of the Third Auditor, twenty-one thousand nine hundred and fifty dollars."

In succeeding years the appropriation was in the same, or equivalent language. Under these appropriations the clerks were doubtless entitled to receive respectively the amount of compensation fixed by law for the grade to which they were severally appointed. But the committee have not been referred to any law which fixes the amount to be paid for the services of messengers and assistant messengers. Nor have they found any such law in their researches. If then, there be no law directing and prescribing the amount to be paid to messengers and assistants, it follows that the departments must contract for the service, and pay out of the appropriation such sums as are agreed on, not exceeding the amount appropriated. That, it is believed, has been done in the present case, and hence Mr. Dove can justly claim nothing more.

The act approved 26th May, 1824, authorizing the employment of additional clerks and certain messengers and assistants, provides, that it shall be lawful for the officers of the departments to employ

in their respective offices messengers, assistants, and other persons, as follows, (among others:) "In the office of the Third Auditor, one messenger and assistant, at a compensation together not exceeding one thousand and fifty dollars per annum." This provision confirms the views already stated. The statute does not declare how much shall be paid to the messenger, and how much to the assistant. Nor does it say that both together shall receive the one thousand and fifty dollars. It may be less. It cannot be more. It is not to exceed that sum. But who shall decide whether it shall fall short? Evidently, the officers of the department who are vested with the authority to employ the messenger or assistant.

The committee see no just foundation for the claim of the petitioner, and recommend that it be rejected.

## REPORT

The Committee of Claims to whom was referred the petition of

John H. Hays, formerly assistant messenger in the office of the Third Auditor of the Treasury, states that, while in service he did not receive so much as Congress annually appropriated to pay the assistant messenger. He claims the full amount of the appropriation to wit: at the rate of \$100 per annum during his service, subject to a credit for the amount paid him. The claim is based upon the idea that the petitioner was an officer of the government and an annual salary fixed by law. The committee do not admit the propriety of treating messengers as salaried officers. The appropriation for clerks and messengers in the Third Auditor's office in the year 1835, being the first succeeding Mr. Hays' employment, was in these words: "a compensation to the clerks and messengers in the office of the Third Auditor, twenty-one thousand nine hundred and fifty dollars."

It is observed that the appropriation was in the same or similar language. Under these appropriations the claims were denied. It is further observed that the amount of compensation last entitled to receive respectively the amount of compensation for the year for the grade to which they were severally appointed. But the committee have not been referred to any law which limits the amount to be paid for the services of messengers and assistants. Nor have they found any such law in their researches. There is no law directing and prescribing the amount to be paid to messengers and assistants. It follows that the appropriation must contract for the service, and pay out of the appropriation such sums as are agreed on, not exceeding the amount appropriated. That it is believed has been done in the present case, and hence Mr. Hays can justly claim nothing more.

The act approved 26th May, 1835, authorizing the employment of additional clerks and certain messengers and assistants provides that it shall be lawful for the officers of the department to employ